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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/561,147	06/09/2006	Rafael Beyar	060541-0104	9102
26371 7590 03/10/2009 FOLEY & LARDNER LLP 777 EAST WISCONSIN AVENUE MILWAUKEE, WI 53202-5306				
EXAMINER				
VU, QUYNH-NHU HOANG				
ART UNIT		PAPER NUMBER		
3763				
MAIL DATE		DELIVERY MODE		
03/10/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/561,147

**Applicant(s)**

BEYAR ET AL.

**Examiner**

QUYNH-NHU H. VU

**Art Unit**

3763

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-18 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-18 and 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

Amendment and Request for Continued Examination (RCE) filed on 11/13/08 and 12/18/08 have been entered.

Claims 7-18 and 33 are present for examination.

Claims 1-6, 19-32 are cancelled.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 7-10, 12-13, 16, 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Plicchi et al. (US 2004/0254566).

Plicchi discloses, in Fig. 2, a transmission apparatus comprising:

a first main gear 15 rotationally attached to a support and capable of being driven by a first drive 16;

a second main gear 118 being coaxial to the first main gear coaxially and rotationally attached to the first main gear 15, the second main gear 118 geared to a roller drive gear 9 and being driven by a second drive 17;

a linear drive in which an elongated device is engaged along an axis of rotation of the elongated device, the linear drive coupled to the first main gear, when the first main gear is rotated, the elongated device is rotated about the elongated device's axis of rotation, the linear drive (5-105; 5'-105') being

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geared to the roller drive gear, when the second main gear is rotated the linear drive imparts linear motion to the elongated device. Also see para [0027].

Regarding claim 33, it encompasses the same scope of the invention as to that of apparatus claim above except they are drafted in method format instead of apparatus format. The claim is therefore rejected for the same reason as set forth above.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-10, 12-13, 16-18, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. (US 6,171,234).

White discloses a transmission apparatus comprising: (See Fig. 4 below also)

a first main gear 42 rotationally attached to a support and capable of being driven by a first drive 44;

a second main gear 42 being coaxial to the first main gear coaxially and rotationally attached to the first main gear 42, the second main gear 118 geared to a roller drive gear and being driven by a second drive 44;

a linear drive 12, 14 in which an elongated device 30 is engaged along an axis of rotation of the elongated device, the linear drive coupled to the first main gear, when the first main gear is rotated, the elongated device is rotated about the elongated device's axis of rotation, the linear drive being geared to the roller drive gear, when the second main gear is rotated the linear drive imparts linear motion to the elongated device.

White discloses that both main gear 42 being drive by only drive mote 44, while claimed invention provide two separate drive motor for each gear. However, it is very common in the gear/motor art to

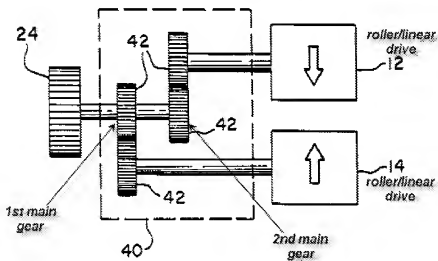
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provide each gear is being driven by separate drive motor for controlling rotate. Plicchi's reference above is one of example that two separate gears are being driven by separate drive motor.

Regarding claims 16-18, core 30 is a medical device, and having same elongated structure with guide wire or catheter. One skill in the art would recognize that the elongated 30 can be used as a catheter or guide wire.

Regarding claim 33, it encompasses the same scope of the invention as to that of apparatus claim above except they are drafted in method format instead of apparatus format. The claim is therefore rejected for the same reason as set forth above.

**Fig. 4**



Regarding claim 33, it encompasses the same scope of the invention as to that of apparatus claim above except they are drafted in method format instead of apparatus format. The claim is therefore rejected for the same reason as set forth above.

Claims 11, 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Plicchi or White in view of Merrill et al. (US 2003/0176770).

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Plicchi/White discloses the invention substantially as claimed. Plicchi/White does not disclose a first and second position sensor.

Merril discloses a similar device comprising: a first and second sensor 19 and 32 to detect a longitudinal directly force applied to the elongated member and maintain a position using passive or active braking force (Fig. 4)

It would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the device of Plicchi/White with sensors, as taught by Merrill, in order to detect a longitudinal directly force applied to the elongated member and maintain a position using passive or active braking force.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Plicchi.

Plicchi discloses the invention substantially as claimed. Plicchi discloses the elongated device is a medical device such as catheter, but not a guide wire. Since the guide wire has the same elongated structure as catheter. One skill in the art at the time the invention was made to a person having ordinary skill in the art to use the device of Plicchi with a guide wire, in order to delivery the guide wire into the body for intended use.

### ***Response to Arguments***

Applicant's arguments with respect to claims 7-18 and 33 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quynh-Nhu H. Vu whose telephone number is 571-272-3228. The examiner can normally be reached on 6:00 am to 3:00 pm.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nicholas D Lucchesi/  
Supervisory Patent Examiner, Art Unit 3763

Quynh-Nhu H. Vu  
Examiner  
Art Unit 3763